

**MINUTES**

**MONTANA SENATE  
58th LEGISLATURE - REGULAR SESSION**

**COMMITTEE ON FINANCE AND CLAIMS**

**Call to Order:** By **CHAIRMAN TOM ZOOK**, on March 27, 2003 at 8:00  
A.M., in Room 317 Capitol.

**ROLL CALL**

**Members Present:**

Sen. Tom Zook, Chairman (R)  
Sen. Bill Tash, Vice Chairman (R)  
Sen. Keith Bales (R)  
Sen. Gregory D. Barkus (R)  
Sen. Edward Butcher (R)  
Sen. John Cobb (R)  
Sen. Mike Cooney (D)  
Sen. John Esp (R)  
Sen. Royal Johnson (R)  
Sen. Bob Keenan (R)  
Sen. Rick Laible (R)  
Sen. Bea McCarthy (D)  
Sen. Linda Nelson (D)  
Sen. Trudi Schmidt (D)  
Sen. Debbie Shea (D)  
Sen. Corey Stapleton (R)  
Sen. Emily Stonington (D)  
Sen. Jon Tester (D)  
Sen. Joseph (Joe) Tropila (D)

**Members Excused:** None.

**Members Absent:** None.

**Staff Present:** Prudence Gildroy, Committee Secretary  
Taryn Purdy, Legislative Branch

**Please Note.** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing & Date Posted: HB 2, 3/22/2003  
Executive Action:

HEARING ON HB 2

Sponsor: REP. DAVE LEWIS, HD 55, Helena

Opening Statement by Sponsor:

REP. DAVE LEWIS, HD 55, Helena, summarized what happened to the bill in **House Appropriations** and on the House floor.

**EXHIBIT (fcs65a01)** The general fund net increase of \$13,360,238 consists of two items. There was an accounting change that really didn't add anything, but the appropriation went into **HB 2**. There is \$7 million in Corrections that is contingent on **HB 363** that would transfer money from the excess reserve in the Old Fund Work Comp. The total of those two items account for the entire increase in general fund put into **HB 2**. Everything else was if you put money in, you have to take money out. The most controversial thing they did, was put more money into the **Department of Public Health and Human Services (DPHHS)**. They were \$28 million under the Governor's budget. The majority of the committee voted to give a 1% across the board cut of all agencies other than **DPHHS**, and put that general fund money into **DPHHS**. They felt the problem was so extreme, it justified asking every agency in state government to give up 1% of their general fund budget to address those problems. The biggest single impact is on K-12 education. The cut made there was contingent on the passage and approval of **SB 323**. There was \$43 million put in on the House floor, but most of that was contingent on **HB 750**. One of the first amendments that passed, restored the 1% across the board reduction to the Judiciary. He opposed the amendment and wanted to wait until the Senate resolved the district court issue. \$585,000 went in and \$3.6 million was put in for district court assumption costs contingent on **HB 750**. There were two amendments passed in **Health and Human Services Committee** that donated dental services for \$50,000. An amendment restored money to domestic violence prevention. Many other amendments did not pass. They put \$4.6 million into **DPHHS**, and **Corrections** was brought up to the Governor's budget level contingent on passage of **HB 750**. In education, they added \$5.3 million contingent on a cigarette tax increase. They put in an increased distribution to schools contingent on **HB 750**. A technical amendment on the Fire Services Training School authorizes transferring excess money from this fiscal year to the next fiscal year to pay for a move. The other contingencies were for the Commissioner of Higher Education and Community Colleges to bring them up to the Governor's budget. The \$7.8 million for the Agricultural Experimentation Station Extension Service Student Assistance was an amendment from the general fund but contingent on receipt of additional federal dollars from Congress

in the new federal budget. Another contingent appropriation was made of \$839,000 of which almost \$600,000 was Judiciary. Contingent appropriations total \$42 million with the bulk tied to **HB 750**.

**Clayton Schenk, Legislative Fiscal Analyst**, gave a summary and overview of **HB 2**. The budget is more than \$6 billion for all funds. There is \$2.3 billion in general fund in this bill. K-12 and Higher Education combined are almost 57% and Human Services is almost 23%. Corrections is 9% and altogether they total 88.5% of the total budget. Human Services is up almost \$5.9 million as compared to last biennium, but there are a number of offsetting items, including a shift of funding into the Prevention and Stabilization Account. There are increases to **Corrections** of about \$15 million due to increased population projections. **Higher Education** is about \$9.1 million higher for a variety of reasons, but they also had unspecified reductions. Public Schools are actually down \$2.3 million compared to last biennium because of the reduction in ANB and the 1% across the board reduction which amounted to about \$10 million. In all other increases, the biggest is \$26.5 million and the majority of that is the district court assumption which was not in the last biennium. There is a huge change in the allocation, with the federal funds in state special revenue to the **Department of Transportation** and to **Human Services**. The largest increases in federal funds are in Human Services. The budget provides for a total increase of \$2.4 million general fund over last biennium. He explained a chart summarizing general fund action to date. \$163.1 million has been added back into agency budgets from the time they established the base at 2000 levels. He explained a chart which compared the budget to present law and another chart comparing the Executive budget general fund appropriation summary by agency. A written summary of that comparison appears on page 4 of the Overview in the Narrative. There are general fund contingencies in the bill of over \$100 million. If those contingencies do not occur, the general fund will be \$40 million below the Executive. If the Prevention and Stabilization Account does not occur, the funding would drop to over \$100 million below the Executive budget. He advised staff would point out contingency language as the committee proceeds through the bill. There are \$50 million in fund switches. In regard to language issues, **HB 2** may contain language in conflict with substantive law, and a number of unspecified increases and decreases. The largest areas are in the **University System, Corrections System, and DPHHS**. He advised to the extent these are unspecified, the agencies are given flexibility, but the legislature is also delegating their role of setting priorities, service levels, and types of services that state government will provide, and that is a policy issue. *{Tape: 1; Side: B}* **HB 2** is more complex this time

than is traditional. The rollback to the 2000 base is one of the decision packages.

**Questions from Committee Members and Responses:**

**SEN. EMILY STONINGTON** said they were going to be looking at this in the context of what revenue is available and she asked how much money is in **HB 750** and how much of **HB 2** is contingent on the passage of that bill, etc. She also wondered about the unspecified cuts and thought there might be statutory changes required. She wondered if there were holes in the budget regarding unspecified cuts and how they are to be implemented.

**Mr. Schenck** advised **Terry Johnson, Legislative Fiscal Division**, would speak to them about the revenue side. **HB 2** has \$29 million contingent on **HB 750**. There may need to be legislation to enact unspecified cuts and increases. If the contingencies didn't occur, there would be an issue over what is and what isn't funded.

**Mr. Johnson** said **HB 750** proposes increasing the cigarette tax from eighteen cents to sixty-five cents per pack. That would generate about \$56.4 million in additional cigarette tax revenue. There is a proposal to pay back the \$29 million transfer from the Coal Tax Trust. There would be about an \$8 million payment back to the trust. Net revenue available would be about \$47.7 of the cigarette tax in addition to the \$29 million transfer. The total amount is about \$76.7 million.

**SEN. TRUDY SCHMIDT** asked about the community colleges and whether it was contingent on **HB 750** and also **HB 476, SB 407, etc.**

**Taryn Purdy, Legislative Fiscal Division**, explained if any one of those bills passed, the community colleges would be funded.

**SEN. STONINGTON** asked **Mr. Johnson** if those were biennial figures, and he said yes.

**SEN. JOHN COBB** asked how much they were below the Governor's budget. **Mr. Johnson** advised the number to get to the Governor's budget is about \$98 million. To get **HB 2** to present law is about \$95 million.

**CHAIRMAN TOM ZOOK** asked the Executive Branch to comment.

**Jane Hamman, Office of Budget and Program Planning**, said the preparation of the 2005 biennium has been the most challenging budget any of them had ever been involved in. They have two major concerns--one is the budget is nearly \$100 million below

the Executive budget, and the other is the unspecified reductions, not only in **DPHHS** but in many of the other agencies. There is no specific plan as to where to take those, and there is a concern there may be some additional legislation required in order to implement those cuts. If some of the reductions that are below the Executive budget are restored, those unspecified reduction concerns go away.

**SEN. COBB** advised the Executive did not give them a legal Executive budget. He contended you can't just take coal money; it's not revenue.

**SEN. STONINGTON** said it would be helpful to have a summary of other bills moving through that have even one-time money in them, etc.

#### **Section A:**

**REP. JOHN BRUEGGEMAN** gave an overview of Section A from the narrative on **HB 2**. The funding for the Legislative Branch is below the 2002 biennium, and all new proposals have been eliminated. The legislature adopted the proposed Executive budget for the Consumer Counsel. The general fund increases in the Judiciary budget are due to state district court assumption. \$3.6 million is contingent on passage of **HB 750**. He noted a subcommittee worked on **SB 134** and true costs for district court assumption would be about \$2.4 million above the Executive. The Judiciary is currently at the Governor's budget, but they did not give them the additional \$2.4 million proposed by the Chief Justice.

**SEN. COBB** asked **Chief Justice Karla Gray, Supreme Court**, to comment.

**Chief Justice Gray**, advised it's up to the legislature to decide. She stated the \$2.4 million requested in their proposal is less than sufficient.

**SEN. COBB** asked what they would do if they don't get that money.

**Chief Justice Gray** said she was optimistic the Legislature will meet it's obligations to fund the Judicial Branch so the people of Montana will be provided the services to which they're entitled. If the branch is not funded to that extent, she has no plan. She is counting on the legislature to do the right thing. Almost all of their underfunded status is a result of last session's adoption of state assumption. She vowed she would not close the courts in the state of Montana for even one day a week.

**SEN. JOHN ESP** asked about the rationale for the contingency amendment.

**REP. BRUEGGEMAN** advised he did not construct the amendment, and did not know why the \$3.6 million was in that. It was probably originally to cover the 1% unspecified reduction. It was actually too much, if they want to go \$2.4 million above the Governor's budget as requested by the Chief Justice. He further advised the Montana Chiropractic Legal Panel will be eliminated, and explained the funding of the Governor's office on page A-27 of the Narrative.

**SEN. ESP** asked if the Mental Health Ombudsman is fully funded at the previous level with state and federal special revenue.

**Lynn Zanto, Legislative Services**, explained the funding was moved to maximize Medicaid reimbursement, and it will be fully funded.

**SEN. STONINGTON** asked how the Board of Visitors is funded with Medicaid money.

**Ms. Zanto** said it isn't currently, but **DPHHS** is determining whether the board is eligible for Medicaid funding. *{Tape: 2; Side: A}*

**SEN. STONINGTON** asked if the full budget for the Mental Health Ombudsman moved to the Board of Visitors with the hope that some of that can be replaced with Medicaid matching money. **Ms. Zanto** verified that is correct.

**SEN. ROYAL JOHNSON** asked about the Governor's reaction to moving the Flathead Basin Commission to the **Department of Natural Resources**.

**REP. BRUEGGEMAN** didn't think they had taken a position on the issue. It was something the committee discussed and believed the function of the commission would be better served and more consistent with the operations of **DNRC**.

**SEN. JOHNSON** asked if there was any discussion with the Governor's office, and **REP. BRUEGGEMAN** advised they didn't have any objection.

**SEN. GREG BARKUS** asked **CHAIRMAN ZOOK** about **SB 446**. **CHAIRMAN ZOOK** advised it is in committee, and if they are going to act on it, it should be done soon.

**SEN. MIKE COONEY** asked if moving the Mental Health Ombudsman to the Board of Visitors is so the Board of Visitor's money could be used for a Medicaid match to fund the Ombudsman.

**Ms. Zanto** answered the general fund within the Board of Visitors could be used for both to have full funding.

**SEN. COONEY** asked if they sent the Ombudsman's office over there with any money.

**Ms. Zanto** said all their federal money was sent over, but not general fund.

**CHAIRMAN ZOOK** asked about the rationale for moving the Consensus Council to the **Department of Administration**.

**REP. BRUEGGEMAN** thought it was to make the Consensus Council more neutral within state agencies. It would not then be viewed as partisan.

**SEN. COREY STAPLETON** asked about the two vacant FTE's. **REP. BRUEGGEMAN** advised it was one budget analyst, and one was in the Economic Development Office.

**SEN. STAPLETON** asked about the \$159,000 for the mansion maintenance program on page A-28. He wondered why they would spend that much on the Governor's mansion at this time.

**REP. BRUEGGEMAN** responded the mansion maintenance program is for the FTE for the Governor's mansion for cleaning, cooking, and maintenance, and for the hard costs of the maintenance to the facility.

**SEN. STAPLETON** asked about the Coordination of Indian Affairs, the state gets \$2 million in federal special revenue, and another \$154,000 from state special revenue (A-28). He wondered why they would spend \$274,000 general fund making this office 20% over the Executive budget.

**REP. BRUEGGEMAN** advised the general fund money pays for the Indian Affairs Coordinator and their staff. The \$2 million in federal funds is contingent on federal money becoming available.

**SEN. SCHMIDT** asked about moving the Mental Health Ombudsman.

**Lois Steinbeck, Legislative Fiscal Division**, advised the federal government recognizes when the Mental Health Ombudsman works with Medicaid eligible folks in terms of accessing services, that is an administrative cost and will be matched 50/50.

**REP. BRUEGGEMAN** discussed the budget highlights of the **Secretary of State's** office on page A-41. There is \$20 million in federal authority in case the funds become available for the Help America Vote Act which will be matched with \$750,000 state special revenue. The budget of the Commission of Political Practices (page A-43) is below the Executive due to the 1% reduction. The State Auditor budget (A-45) includes two additional FTE along with increased funding for contract examinations of insurance investment companies. A funding switch eliminates the general fund. The department will change the way they are charging for on portfolio filings, which will result in an additional \$1 million per year.

**SEN. STAPLETON** asked if there is a 15% increase in spending over the last biennium.

**REP. BRUEGGEMAN** said that would be correct. The money the **State Auditor's Office** collects is all state special revenue, but they transfer a certain amount of that balance every year into the general fund.

**SEN. STAPLETON** asked if their budget is increased by 15%, if there is a larger percentage going back into the general fund.

**Ms. Zanto** advised there is an increase in their budget over the last biennium, primarily in state special revenue. Any of the fees in the Securities program that aren't spent go to the general fund. The change in how they collect security fees will generate about \$900,000 to \$1 million over the next biennium.

**SEN. STAPLETON** asked if there is some fundamental change in the function of the Auditor's office as the reason for the 15% increase.

**REP. BRUEGGEMAN** advised there were a couple of functions where they are increasing some FTE and contracted services. Some of that is for the market conduct survey. They are also doing some captive insurance oversight.

**SEN. STAPLETON** advised the captive insurance was at the request of the Auditor last session. His concern was in growing this office at the same time they're cutting a lot of the other agencies.

**SEN. JOHNSON** asked how much money was reverted last year. **Ms. Zanto** said she would get help with that.

**SEN. STONINGTON** asked if the 1% reduction as applied is indicated in each agency, and where it is applied.



**REP. BRUEGGEMAN** advised it is included in the decision package that has been broken out. The 1% reduction only applied to state general fund, and so any of the special revenue agencies would not have that much of a reduction.

**Ms. Purdy** advised because the 1% is not specified, the analyst looked for a line item that could handle that 1%.

**SEN. STONINGTON** stated the unspecified cuts in some agencies are going to be small, but some will see significant dollars. She would like to know where those are, and then question the agency about how it's going to be handled.

**REP. BRUEGGEMAN** continued going through the Narrative and stated the **Department of Transportation** is about 40% special revenue and about 60% federal special revenue. He outlined the budget highlights on A-53.

**SEN. JOHNSON** asked about the bond proceeds for Highway 93. **REP. BRUEGGEMAN** advised the bonding for that is all federal special revenue. The bond proceeds will be paid back entirely out of special revenue.

**SEN. JOHNSON** indicated at one time, there was a consideration made by the department to use a fairly large bond paid by a discounted tobacco deal. He asked if that has disappeared now.

**REP. BRUEGGEMAN** advised the money now is actually a federal GARVEE bond, and is not a tobacco issue. The federal bonding is paid for by the anticipated future federal allocations to the department.

**SEN. JOHNSON** asked if those aren't paid off, who is responsible for those bonds.

**Jim Currie, Department of Transportation**, advised the bonding they're looking at for the Highway 93 project is a revenue bond. The tool they are using, which is new to the Federal Highway Act, is called a GARVEE bond. They can use their future federal aid obligation authority to pay the debt service on the bond. This particular project is all on the Flathead Indian Reservation, and as such is 100% federal. The entire debt service of these bonds will be through federal funds; there will be no state special revenue involved. When they let these bonds, they will pledge not only their future federal aid program for the security of the bond, they will also pledge state special revenue to those bonds in order to get the best ratings. If for some reason, the federal government got out of the highway business and they were not able to utilize future federal aid authority to service the

bonds, it would fall on the state special revenue fund. That is an extremely low risk. It looks like there will be program growth for the state of Montana.

**SEN. JOHNSON** asked how much that total project will cost.

**Mr. Currie** indicated the entire project from Evaro Hill to the south end of Polson will be from \$110 million to \$120 million. They are bonding for a portion of the project, about \$90 million. The only reason they're asking for \$78 million worth of spending authority is based on when they anticipate letting these projects; the payout will be projects that will occur over the 2004 and 2005 biennium.

**SEN. JOHNSON** asked about staff reductions in 2004 and increases in 2005.

**Greg Dewitt, Legislative Fiscal Division**, advised the payout schedules are related to the anticipated payout related to construction contracts. There are a number of vacancies, but these adjustments are partially related to efficiencies found by the department.

**SEN. BILL TASH** asked about the Highway 93 project and the right-of-way acquisition concerns.

**Mr. Currie** advised they worked with the tribe to acquisition the tribal parcels which involved some land exchanges that have been worked out. There is property actually owned by the tribe itself and also property owned by individual members and non-tribal owners that will have to go through the normal right-of-way acquisition process. There are approximately 600 parcels to acquire.

**SEN. STONINGTON** asked about the \$6 million replacement funds that were taken away for the state special revenue account.

**REP. BRUEGGEMAN** advised the budget they built is based on \$325 million worth of potential transportation allocation. The fund balance is declining and would require some adjustment. The department will manage that, so there would not be a gas tax increase. *{Tape: 2; Side: B}* The \$6 million impacts the Motor Vehicle Division, but they do have some flexibility with respect to their indirect costs allocation. They are able to transfer some money between federal and construction program.

**SEN. STONINGTON** asked if they would have the flexibility to move funds into that account and maintain that ending fund balance at a reasonable level beyond the 2005 biennium.

**REP. BRUEGGEMAN** answered with the flexibility with respect to their indirect costs allocation, they would have the flexibility to manage that account so they would not require a gas tax in the future.

**SEN. COBB** asked the department about long term planning and if projects will be cut back in 2006, 2007, and 2008.

**Mr. Currie** said in preparation for the legislative session, and every year, they update their tentative constructive program. That is a five year plan of actual construction projects they intend to deliver around the state of Montana. Typically, when Congress passes a federal aid program, it is a six-year authorization. They are in the last year of the current authorization, and starting next federal fiscal year and the six years beyond, they estimate it will average about \$325 million. Based on that federal aid level, they submitted their budget for a tentative construction program going out five years, even though their budget only deals with the next two years. They anticipate a positive working capital balance in the highway state special revenue fund in the next biennium. They manage the fund to maximize the amount of money they can put out on the highway. In the long term they look at tools they have to manage the fund to keep it solvent. They are confident the fund will remain solvent through 2007 easily. If something totally unforeseen happens regarding to federal funds, Montana could see an increase in gas tax. They are trying to work with the delegation in Washington to get the best match ratio.

**SEN. JOHNSON** said his understanding of GARVEE bonds is it is the payout of the increase over which they are currently getting from the federal government. That is where the money comes to pay the bond principle.

**Mr. Currie** said if there is enough increase to absorb that in the Missoula district, then yes. They do not want the Highway 93 project to impact highway construction in the rest of the state. Their plan is to pay the debt service out of the AHS and STP allocation funding that goes to the Missoula district only. The debt service will be about \$8 million a year. If their federal aid program goes up to the extent that the Missoula district gets that much of an increase in their allocation, it would have zero impact on the projects that are currently planned in the Missoula District. If it doesn't, it will impact the Missoula district only.

**SEN. JOHNSON** asked if they would look to the state special fund if they did not get the increases for the GARVEE bonds.

**Mr. Currie** advised that's where they would look if there were no federal funds. It does not necessarily mean they would have to get an increase in federal funds. If they are funded at the same level they are today for the next six years, highway state special revenue funds will not come into play. If they are funded for less, those special revenue funds will not be impacted. They are simply using the guarantee of the special revenue funds to increase the security and the bond rating so they get a better interest rate.

**SEN. JOHNSON** said in the chart on A-54 it shows a negative situation. He asked if this puts another \$8 million in the hole if that situation exists.

**Mr. Currie** advised if they had to pay the debt service out of the state special revenue fund, it would. The only way for that to happen is if the federal government did not allocate any federal aid highway dollars to the state of Montana, and that's not likely to happen.

**SEN. COONEY** asked about the switch of \$29 million federal funds from highway construction to traffic safety to fund misdemeanor probation officers.

**REP. BRUEGGEMAN** advised it was done because the open container bill was tabled in the **Judiciary Committee**. If that bill were to not pass, the state will receive a sanction for federal construction dollars. They will still get the amount of federal construction money, but some of that money will have to be put into safety. It was **REP. JIM SHOCKLEY's** intention to take that money and, if the open container bill does not pass, then \$2.9 million will be transferred to pay for probation officers.

**SEN. COONEY** asked if there is any concern about using those dollars to fund probation officers.

**REP. BRUEGGEMAN** said in his mind there is. He understood it would be allowed, but his concern was with the state special revenue account. It has always been for highway construction, and he was concerned about creating FTE's with this soft sanction money. If there is a soft sanction for a period of time, it becomes a hard sanction if the state doesn't pass the open container law. He thought they were in that situation currently with the .08 provision. He didn't see this as a long term source of revenue for those FTE's.

**CHAIRMAN ZOOK** suggested **SEN. COONEY** draft an amendment for that.

**SEN. JOE TROPILA** asked what they would have to do to transfer the money to the **Department of Corrections**.

**Mr. Dewitt** advised the money for the probation officers has contingencies. It voids the amendment if the open container law passes. Local government law enforcement agencies establishing a plan that meets the requirements for use of the funds is another contingency. If they apply for grants, and it meets the requirements, then the grant will be administered out of the **Department of Transportation**.

**SEN TROPILA** asked if this would be ongoing.

**Mr. Dewitt** advised if something is established, there is always the assumption it will always be funded.

**REP. BRUEGGEMAN** continued in the narrative on page A-81 with the budget highlights for the Department of Revenue. The general fund was reduced by about \$600,000 in the 1% across the board cut.

**SEN. SCHMIDT** asked the director for input on the cuts in his department.

**Kurt Alme, Director, Department of Revenue**, advised the department has seen about a 10% staff reduction since 1995. The cuts would affect 21 FTE in the Executive Budget. Five FTE are involved in POINTS change management, there is one performance management staff, and one management analyst position. They eliminated one training officer, which leaves a training staff of two. They have reconstructed their training program to include on-the-job training by managers and other staff. The increase for the unclaimed property auditor was an appropriation in last session. That position grossed \$139,000 in general fund revenue, and is a good cost benefit position for the state. They were staffed up for the property tax reappraisal, and that process is coming to an end. They will be able to sequentially staff down in their appraisal function and still maintain what is required under statute until the next reappraisal cycle. With the decision to stop POINTS II, they were able to phase down three FTE. If they are to start a new system, as **SB 271** contemplates, they will bring back two staff. If they are to go forward with replacing POINTS, they will change management functions to realign business processes to match that computer system, so one of the change management staff is built back into the cost of **SB 271**, as well as a forms management position. It will be critical in transition to track the performance of the wage based taxes.

**SEN. ED BUTCHER** asked if the \$139 million was a sweep of 10 years, and in actuality they are probably looking at \$20,000 a year in unclaimed property.

**Mr. Alme** explained they have never audited unclaimed property prior to this time, and there are still areas to reach. They anticipate dollars similar to the last biennium.

**SEN. TROPILA** stated in his thirty years in the legislature, **Mr. Alme** is one of the best department directors he had seen.

**REP. BRUEGGEMAN** continued with the narrative on page A-95 for the **Department of Administration**, and the budget highlights and those on page A-134 for the **Appellate Defender Office**. He said **SEN. COONEY** has amendments with respect to that office.

**Comments from Department Directors:**

**Jim Currie, Department of Transportation**, advised their budget covers a period of time where the Federal Highway Authorization Act is in the process of being re-authorized. They are asking for a level of federal aid funding based on the \$325 million they anticipate receiving. The Highway 93 project is important to them as it is one of the most dangerous corridors in the state of Montana. The plan will improve that highway to where it will operate sufficiently for the next twenty years. He addressed the concern about the highway state special revenue fund. It is solvent through the 2005 biennium. They have the tools to manage the fund so it will remain solvent, and there are no plans for a fuel tax increase. He discussed the amendments for the probation officers and the open container law. If the open container law does not pass, the \$5.4 million **{Tape: 3; Side: A}** will be used for highway safety problems. They oppose the amendment that was put on in the House. The other amendment asks for authority to spend earmarked federal funds. He addressed the issue of the probation officers, and indicated they are working on getting the federal government to get away from the idea of sanctions and go toward the idea of incentives.

**SEN. LINDA NELSON** asked how many employees might take advantage of the retirement incentive package that might be offered.

**Mr. Currie** said they polled their employees on that issue, and there are about 102 that will definitely take it, and 79 are considering it. It will have a significant impact on the department.

**SEN. BUTCHER** asked about the \$5.5 million and the open container law. He wondered if problem highways would include some rebuild

projects on highways where there are narrow roads, bad hills, etc.

**Mr. Currie** indicated if they are able to do what they are anticipating with the money, it will all be funneled back into construction. They can either put the funds into site-specific, small projects or add the funds to a reconstruction project that will address a specific issue as part of the project.

**SEN. BUTCHER** asked if all that money could be put into highways, if it would be possible to forget the probation issue.

**Mr. Currie** advised if **SB 39** passes out of **House Judiciary**, there will be no funding for probation officers.

**SEN. BUTCHER** said if it doesn't, they can still divert the money into highway construction rather than probation. **Mr. Currie** said that is correct and is their intent.

- RECESS 10:10 -  
- RECONVENE 10:29 -

**CHAIRMAN ZOOK** invited departments to comment.

**John Huth, State Auditor's Office**, thanked the Subcommittee, etc., and expressed they were treated fairly.

**Chad Wright, Appellate Defender Office**, addressed the overall reduction in their budget on page A-134 and A-135. It is a \$20,000 reduction over the biennium. They were a state special revenue fund agency in 2000, and so they arrived at one of the first subcommittee hearings with a zero budget. He did not attend the executive session on their office because he had a court hearing in Billings. They received a reduction from the Governor's office of \$7,100. They had an \$8,000 reduction in unallocated costs to get them down to the 2000 level, and the global reduction, for a total of \$92,653 reductions for the biennium. For each year of the biennium, they have approximately \$25,000 in fixed operating costs, which leaves around \$8,000 to work with out of their operating budget. They can't operate with that amount. If they do, their only option is to turn down appellate cases that are assigned to them. That doesn't mean the cases go away, it means someone else will do them at a court appointed rate, and that money still comes out of the general fund. They've turned down about ten cases since the special session. He would rather be able to take cases and have the budget to do that. He thought they could live with either the special fund reduction from the Governor, or the allocated cost reduction, but not both.

**CHAIRMAN ZOOK** asked if he had a chance to address this in **House Appropriations**.

**Mr. Wright** advised he didn't recognize the overall cut in their budget would be different than what he expected in their committee hearings. He didn't recognize the overall cuts until the 1% global reduction came down.

**SEN. TROPILA** noted the Subcommittee on District Court Funding was working on combining the Public Defender and the Appellate Defender. **SB 218** and **SB 134** are in the process of being merged together. He advised talking to OBPP about the fiscal note.

**Mr. Wright** advised, in talking to **SEN. MIKE WHEAT**, their budget would still remain separate and they would not be included in the fiscal note for **SB 218**.

**Barbara Ranf, Governor's Office**, commented about the \$581,000 per year unspecified reductions. There was also a restriction put on the economic opportunity funds, which hampers their ability to manage that level of reductions. \$500,000 is the unspecified reduction, and \$81,000 is the 1% across the board reduction. 85% of their budget is personal services, and the further reductions come with no statutory or constitutional changes to lessen the requirements and duties they need to perform.

**SEN. STONINGTON** asked if they have proposals for statutory changes that would help them manage their reductions.

**Ms. Ranf** advised in Subcommittee, any of those programs that are statutory were open for discussion and they still are. Some of the programs that could be eliminated include the Board of Visitors, Indian Affairs, etc.

**SEN. STONINGTON** advised one of her concerns in facing dramatic reductions in budgets is expecting agencies to continually do more with less. They should reduce the statutory demands or expectations citizens have of each of those agencies. She would welcome suggestions for statutory changes.

**Ms. Ranf** provided a list to the Subcommittee that identifies all the statutory programs and the amount of money that would be saved. **SEN. STONINGTON** asked if her office prioritized those.

**Ms. Ranf** said their wish is they all be funded, but she could do that.

**SEN. COONEY** asked about the **Office of Political Practices** and their plans to absorb the 1% cut.



**Darcy Hubbard, Program Supervisor**, advised their 1% reduction would be around \$6400. The only place they would have flexibility would be in legal fees for dealing with complaints. They would either take longer to do complaints or ask for supplementals.

**SEN. STONINGTON** recalled five days were cut out of the feed bill earlier in the session, and the 1% reduction is almost \$160,000. It would be put into one program and there is language allowing allocating among programs. She asked **Lois Menzies, Legislative Services**, about that and if there is a reduction of statutory demands they should be looking at.

**Ms. Menzies** advised the entire 1% is parked in Legislative Services Division program 20. That amount also applies to the **Legislative Fiscal Division** and the **Legislative Audit Division**. The \$160,000 cut is shared between the three agencies. They have to decide how that is to be allocated among divisions, and within each division, decisions have to be made as to what services they are going to reduce or tasks they are going to be performing.

**SEN. STONINGTON** asked if the number of audits should be reduced, etc. She thought there ought to be some consideration of statutory changes to meet the reductions.

**Ms. Menzies** agreed. When they made their proposal to leadership, they attempted to preserve FTE to the greatest extent possible. There are opportunities in the **Legislative Services Division** as far as committee work, the number of committees, etc. For much of what they do for the legislature, they have to maintain a certain level of staff for the session. Any reduction in staff results in increased comp time, and they have to maintain staffing levels to keep comp time in check.

**SEN. STONINGTON** urged her to meet with the management team. One idea is to reduce the statutory requirement on audits. Maybe every agency doesn't need to be audited every two years. Her feeling is **Legislative Services** is pretty tight, and the reduction in the feed bill will have an impact.

**SEN. COONEY** said when they heard the proposal in Subcommittee, the funding for this session would get them through about 80-85 days.

**Ms. Menzies** clarified the feed bill itself covers the expenses of the legislature while it is in session and then some ongoing costs such as the amount that the legislature pays for health insurance to cover the legislators. It doesn't impact the interim work that is in **HB 2**. The reduction that occurred in the

feed bill is roughly 200,000 hours, or about five days of a session.

**SEN. COONEY** asked how they were doing, and **Ms. Menzies** advised better than anticipated.

**REP. BRUEGGEMAN** closed on his section.

**Ms. Purdy** advised that **Greg Petesch, Legislative Services**, reviewed the language in **HB 2** and raised some issues. In each instance in each section, the analyst has gone through and provided options for dealing with those concerns. There will be amendments to adjust language to conform with statute or address other concerns, eliminate language, or changes in statute.

#### **Section B:**

**REP. EDITH CLARK, HD 88, Sweetgrass**, opened on Section B--Health and Human Services. *{Tape: 3; Side: B}* She explained the table on page B-14 of the Narrative. Compared to the Executive Budget, they are about equal in general fund. That includes the effect of **HB 121**. About \$18 million was added from the 1% cut from other agencies. \$4.6 million general fund was added contingent on passage and approval of **HB 750**. She explained the Prevention and Stabilization Fund diagramed on page B-2. The enactment of the fund will generate about \$90 million in federal matching funds, primarily in Medicaid. They accepted \$57.5 million in general fund reductions proposed by the Governor. This would be a change in Medicaid eligibility which would affect about 500 persons each month. The change was implemented by the department in February. There was a reduction in mental health services for persons who are not eligible for Medicaid, for a savings of \$5.5 million. The Subcommittee included mental health program changes, and added funding for an additional 2 FTE above the original Executive request at the request of the department to implement the children's mental health services change. **HB 2** was structured to reflect a planned reorganization by the department. They only funded one behavioral inpatient health facility instead of three. There are contracts with Community Mental Health Centers for management of community mental health services to act as gatekeepers to the state hospital. They gave an appropriation for an average population of 175 at the state hospital, instead of the 135 originally proposed. They increased the tobacco control and prevention appropriation from \$2.7 over the biennium to \$8.1 million. Medicaid caseload increases add \$25 million in general fund, which is \$91 million in total funds over the biennium. They will increase the numbers of children and adults that can be served by the Disabilities Services Division, under a Medicaid waiver, and this will reduce the general fund necessary

to continue these services. They subsidized adoption increases, and foster care remains constant. The use of TANF funds for childcare funding means a potential reduction in the monthly cash assistance benefit. For the Child Support Enforcement Division, they did not support the implementation of a fee for the collection of child support. The Prevention and Stabilization Account on page B-82-83 shows what is left to fund. She explained the funding on pages B-5, B-6, B-7, and B-8. Childcare will be maintained at 2002 levels. In **HB 727**, the closure of Eastmont will save \$1.9 million each year of the biennium, and is projected to save \$4 million in the 2007 biennium. She went on to explain pages B-10 and B-13. Federal funds increased \$227 million. Refinancing efforts increased federal funds by \$23 million and there is more to bring in. An agreement between **OPI** and the department will bring in approximately \$27 million for special education and Medicaid needs. They did not make a decision on the Medicaid block grant, as there was not enough information to guide this decision.

**SEN. COBB** explained a handout that was a summary of decision packages with general fund, and what was cut and what was added back into the prevention and stabilization account if funding is available. EXHIBIT (1). For the first time ever, the committee said they needed revenue to fund programs. If preventive programs are cut, the mentally ill will end up in Warm Springs instead of staying in communities. At one time there were 1100 people in Warm Springs, and there are 175 now. If daycare is not funded, because of federal rules, people on TANF don't have to look for work. If people working for low income lose their daycare, they go back on TANF. If the MIAMI program is cut, there will be more low birth weight babies, and the cost goes up. The preventive programs are not mandated, but the preventive programs are to keep people from going to the mandated programs. If these preventive programs are cut, the department will have to cut more from their budget after the legislature leaves. If they just do the Governor's budget and everything above that is cut, the department is mandated to take care of more people who come on to the system because they don't have preventive programs which are a lot cheaper. If the department doesn't get the day care and the medications, they will do more cuts. The mental health system in the communities will not work to keep people out of Warm Springs. If home health care is not funded, people will have to go to nursing homes. The department defended the Governor's budget because there is no money. They agreed more money is needed. If it doesn't happen, the committee will go back and do the specific cuts. If the stabilization account fails, all those things are cut, but there are still some unspecified cuts below the Governor's budget. Since last session, there was at least \$91 million total cuts since and several million since then, plus the federal match. That is the

equivalent of cutting \$110 million or \$120 million out of schools. If the preventive cuts are made, the budget does not take into account all the people that will move to the more costly entitlement programs. In **DHPPS** there are 2800-2900 FTEs, and institutions that must be funded 24 hours a day. One out of eight Montanans need help; others take advantage of it. He didn't believe the Governor would have cut most of those things if she had the money.

**{Tape: 3; Side: B; Approx. Time Counter: 15.2 - 28.5}**

**{Tape: 4; Side: A}**

**Ms. Steinbeck** compared the budget to present law. The way **HB 2** is funded now, there are some things that might be considered critical that are below present law. Medicaid eligibility changes, which affects people heading into nursing homes with the way certain property is counted as a resource. Physician visits being limited to two would be a noticeable departure from present law. The legislative budget with the Prevention and Stabilization Account continues some present law programs that would be eliminated in the Executive budget.

**Comments from Department Directors:**

**Gail Gray, DPHHS**, thanked the Subcommittee who worked 39 days, 4 hours a day, etc. The stabilization account contains some important programs that are not funded. She discussed the cost shifts--if people don't get their drugs, they wind up in Warm Springs. There is an appropriation in the stabilization account for \$288,000 per year for independent living. These are people who don't need a lot of services to live independently. She appreciated the action on **HB 727**, the closure of Eastmont. She said it is a wonderful facility with excellent services and a very good staff. It was a difficult decision, but with 29 people in the facility, the subcommittee voted for closure. She emphasized there are a lot of "ifs" in the budget with refinancing. They think it is an appropriate direction to try to utilize limited state money to match with Medicare, etc., and bring back more federal money to the state to give to providers. There are more questions by the federal government than ever before on refinancing. There is also a concern on access. Emergency room doctors say they are now being paid 36% of their costs. The department has done many things to control costs. They made significant reductions in operations and staffing, and they currently have 288 vacancies.

**Questions from the Committee and Responses:**

**SEN. BEA MCCARTHY** asked **Director Gray** for an overview regarding the retirement proposal.

**Director Gray** advised there are some real advantages for some people that are ready to do something different, and it allows them enough funding to buy health insurance. On the other hand, it would be 300-400 people in their department. If they are not allowed to replace those people, it is too much.

**EXHIBIT (fcs65a02)**

**SEN. JON TESTER** asked about the \$60 million for the new Prevention and Stabilization Account on page B-1. He asked if part of that was to get to the Governor's budget, or if they were for programs not in the Governor's budget.

**Ms. Steinbeck** indicated it is both. The primary area would be the Prevention and Stabilization Account funds that are allocated to the Medicaid match. If **HB 2** stays exactly as it is, and all contingencies were passed, there is \$21 million in general fund allocated. \$4.6 million is contingent on passage and approval of **HB 750**, and \$18 million is added with the 1% across the board reductions to other agencies. Those two general fund appropriations will be used to offset \$60 million if the prevention and stabilization account doesn't go through.

**SEN. TESTER** asked about the tobacco prevention money and if the \$8.1 is for the biennium. **Ms. Steinbeck** affirmed it is. **SEN. TESTER** asked if they can spend it in the first year of the biennium. **Ms. Steinbeck** indicated it is not a biennial appropriation. It is equal for each year.

**SEN. TESTER** asked **Director Gray** about the contingency plans for Eastmont.

**Director Gray** advised if **HB 727** passes, they will negotiate with staff for severance. There will be three group homes started in Butte, Billings, and Missoula on April 1st. That will move two people out of Eastmont, sixteen out of MDC, and will allow combining the two institutions with the movement of ten more people at Eastmont moving into community center. They will build two four-bed group homes in Glendive. **EXHIBIT (fcs65a03)**

**SEN. TESTER** asked about the reference to Medicaid block grants, and if there may not be an adequate maintenance of effort for the state.

**REP. CLARK** indicated that is a forthcoming decision. They will be short TANF money in the block grant because of child care dollars.

**SEN. TESTER** said he was referring to block grants they may not get due to inadequate maintenance of effort by the state.

**Ms. Steinbeck** advised there is a new federal proposal on page B-12. States would opt into a block grant or traditional Medicaid. The choice will be made when the legislature is not in session, and will be a significant policy decision.

**SEN. TESTER** advised they talked to **SEN. MAX BAUCUS's** aide about this and there is some resistance from the department.

**Ms. Steinbeck** advised the ultimate person who will make this decision is the Governor, and the department will advise the Governor. **HB 2** contains at least \$2 million and maybe as much as \$30 million more each year in federal Medicaid funds that would be available to the state under a block grant. The more states that opt into the block grant, a fixed federal amount, the smaller the block grant will be. There is \$26 million over the biennium in federal Medicaid funds that will go to schools to help them offset the cost of health services they provide to Medicaid eligible children. There are major expansions of Medicaid this biennium. The legislature has been silent on any guidance to the Governor in making that decision.

**SEN. COBB** commented Congress, in the House, passed a budget resolution taking about \$100 billion out of these entitlement programs. Regarding the question on maintenance of effort, he indicated the state did not spend enough on mental health, and some money might be lost in federal matching funds.

**SEN. TESTER** asked if it is wise for the legislature to remain silent on the issue.

**SEN. COBB** thought they ought to say not to do it until the legislature is in session. There would be more money now but less down the road. That would be great to balance the budget short term, but maintaining the entitlement programs to take care of the same people and the growing older population is the problem.

**SEN. TESTER** asked if there is a resolution to address the block grant.

**SEN. BOB KEENAN** advised it is still an option, or the Interim Children and Families and the Interim Finance Committee could be brought into the decision making process. It could be put into **HB 2**. They are up against the problem of using the base budget year of 2002, when there were significant cuts for the block grant.

**CHAIRMAN ZOOK** asked if there is something wrong with putting it in **HB 2**, and asked where the statute addresses that.

**Ms. Steinbeck** advised they would need some standard law, because they would be precluding the Executive's ability to make a decision. If they only want legislative input as to desirability, it is similar to a budget amendment.

**SEN. COBB** advised even if they don't pass a law, if leadership of both parties House and Senate say don't do it, it sends a clear message.

**CHAIRMAN ZOOK** asked if the department has an opinion on the issue.

**Director Gray** advised the department is in agreement with everything that had been said, and 2002 is the wrong year. The federal government first talked about \$10 million, but it was based on 2002. They get more than \$10 million currently. They would have to comply with this for ten years, and after seven years, they would have to start paying it back because it is fiscally neutral. The Governor will make the final decision, but unless there's a tremendous change in this direction, her recommendation is this is not good for Montana, for taxpayers, for clients, or the state government.

**SEN. STONINGTON** thought at the very least there should be language in **HB 2** that expresses legislative intent to have a say in this decision.

**CHAIRMAN KEENAN** advised there might be a bill with a broad enough title to add an amendment.

**Ms. Purdy** advised they have until April 8th to do a committee bill or resolution. If statutory change is needed, during the interim there could be formal feedback.

**SEN. STONINGTON** asked about a letter to committee members from Hank Hudson describing calculations the department is doing on the TANF program and needing to do budget cuts soon. She hoped they would get \$15 million in child care funding through the legislature. If childcare money is increased, TANF payments will be reduced. She was inclined to think it is unwise to cut until they know what the budget is going to be.

**Director Gray** agreed. The department was not optimistic about \$15 million more in childcare. If that money was appropriated and available, they believe their numbers will stabilize. She emphasized that even when they had the maximum amount of

childcare, they still had a slightly increasing number of people that were receiving cash assistance. Their fear is if they don't have childcare money, those numbers will go higher. They do not want to decrease assistance to needy families, but if they wait too long, the reduction will be significant.

**SEN. STONINGTON** asked when they anticipate making that decision, and **Director Gray** indicated they review that every single month. They were looking at starting in July.

**SEN. KEITH BALES** asked about Eastmont, and about money in the budget for retraining, and he wondered how that is implemented.

**Director Gray** commented there is no money saved in the first year due to one-time expenditures, but there is money in the second year. The Governor wanted some jobs for the area. Through the **Department of Corrections** a substance abuse program on site at Eastmont would provide between thirty to fifty jobs. There will be two group homes in the Glendive Community with a minimum of sixteen jobs. *{Tape: 4; Side: B}* There will be a negotiated severance package.

**SEN. JOHNSON** asked about a chart on TANF and child care case load and what caused the change in child care.

**Pat Gervais, Legislative Fiscal Division**, explained there are essentially three reductions in the Executive budget that impacted child care. One was the elimination of child protective services, and one was a reduction in the general fund base budget for childcare matching funds. The largest impact was there are no longer TANF funds carried over. The current costs of the cash assistance caseload in the Executive budget are included at \$33 million, and the remainder of the \$44 million grant will go to support administrative costs and the remaining costs of the TANF program. Because there are no carry-over funds, they do not have funds to transfer to childcare, developmental disabilities, or child and family services. The base reduction in child care, because there are no TANF funds transferred, is \$7.6 million per year. There is a \$15.2 million reduction in childcare entirely in federal funds because there are no federal TANF funds for the state to transfer to the childcare block grant in the 2005 biennium.

**SEN. JOHNSON** asked if they took it all off the first year.

**Ms. Gervais** advised they calculated the amount the department will need in order to maintain childcare at the fiscal 2002 base level. In the first year of the biennium, they are anticipating an increase in the federal matching funds that are available.



The \$5.8 million in the first year of the biennium is a smaller number because the department anticipates a couple million dollars increase in federal matching childcare funds that will come to the state of Montana.

**SEN. JOHNSON** asked about item 16.

**Ms. Gervais** advised that is the reduction in the base general fund budget for childcare matching funds that was included in the Executive budget. The Executive budget included a proposed base reduction of \$276,000 general fund and \$676,000 the second year of the biennium.

**SEN. COBB** advised he would get an updated chart. With more childcare, more people went off TANF. In the last year, they cut back on day care and as that money went down, more people go on TANF. He said **Mr. Hudson** told him if they started putting those people back on the day care benefit, they would know right away if this would actually work. If it doesn't work, then they could start doing cuts.

**REP. CLARK** closed on Section B.

**SEN. STONINGTON** advised the subcommittee was committed that this department be a high priority. She hoped the Prevention and Stabilization account is funded.

**Director Gray** said it is important to remember they are still \$28 million below the base.

- recess 12:00 -  
- reconvene 5:25 p.m. -

**SEN. COBB** presented his chart **EXHIBIT(fcs65a04)**.

**CHAIRMAN ZOOK** advised **REP. JIM SHOCKLEY** had an issue in Section B.

**REP. SHOCKLEY** said he amended **HB 2** on the floor to provide if the open container bill fails, some of the money freed up by that will be used to employ 45 misdemeanor probation officers in the counties. The **Department of Corrections** currently supervises felons. The drunks don't get any supervision until they kill someone. \$1.5 million is less than a mile of four-lane highway and more than a mile of two-lane. He thought it would be money well spent if the open container law dies. He presented written information to the committee. **EXHIBIT(fcs65a05)**

**CHAIRMAN ZOOK** asked if the subcommittees ever discussed this and **REP. SHOCKLEY** advised not to his knowledge.

**SEN. TROPILA** asked if this would be one-time money and then what happens.

**REP. SHOCKLEY** advised this money exists for the next biennium because it is taken out of the highway fund. He discussed this with **Director Bill Slaughter, Department of Corrections**, who said it will be such a good program, they will never be able to get rid of it.

**CHAIRMAN ZOOK** asked if it would be federal dollars. **REP. SHOCKLEY** advised \$5.6 million is transferred to safety, but it stays in construction. If it moves to safety, they can use the whole amount and don't have to match it.

**CHAIRMAN ZOOK** asked if the retirement could come out of that also. **REP. SHOCKLEY** indicated \$27,000 for salary and 15% and the 15% will allow the counties to put them in their benefit package.

**SEN. SCHMIDT** asked for the **Department of Corrections** to comment on that proposal.

**Joe Williams, Department of Corrections**, described it as "a heck of an idea." The only problem is the one-time funding, but he had to concur that DUI's aren't supervised appropriately. They had talked about legislation for pre-trial supervision for counties. Judges don't have a chance to see how a defendant will do on structured supervision prior to sentencing. When someone is accused of a crime, and before they go to trial, they would be on some kind of supervision rather than sitting in the county jail. This might work the same with DUI's.

**SEN. SCHMIDT** asked if the funding would be for one biennium.

**Mr. Williams** said yes; it would create a chance to debate that next time they come back.

#### **Section C:**

**REP. JEFF PATTISON** opened on Section C of the bill, beginning with Fish, Wildlife, and Parks on page C-1. He advised one of their objections in subcommittee was to try to help some of the other departments. They tried to maximize efficiencies and streamline government. Their other objective was to try to preserve the integrity and status of the general licensing account. They changed the use of legislative contract authority, so there is an increase of FTE's. They will show up on the base

and will be easier to track for the legislature. They eliminated general fund. They provided funding to combat chronic wasting disease, and raised the funding for shooting range grants for handicapped accessibility. The general license account balance is projected to be \$16.2 million at the end of the 2005 biennium. Limiting program expansions could reduce the likelihood of a fee increase in future biennia.

**{Tape: 5; Side: A}**

**SEN. STONINGTON** asked about the reductions in the general license account and the impact on the ability of the department to conduct business.

**Jeff Hagener, Director, Fish, Wildlife, and Parks**, advised they have several different types of funding mixes. The 20 FTE were there previously on a modified basis and they had to come back each time to get those back. This time, they were put in the base. Their budget was reduced by the subcommittee by a little over 20 FTE's from the Executive for about \$4.1 million. They projected those funds would last until 2007 before they would have to go for a fee increase. Several programs in the department sunset in 2006 and they have federal funding tied to them. They looked at the balance and thought they had plenty of money in the department within their cashflow to not have to ask for an increase until 2007. Some of the reductions were programs that were decision packages in the past that were one-time only or restricted. They had several vacancies as a result of vacancy savings imposed by the last legislative session and several retirements that were a substantial payout. In addition, the Governor imposed a hiring freeze in 2002, so they could not hire some of those vacant positions. They have a large cadre of seasonal FTE's that they use in the summer. Several positions that came out of the final \$9.28 are seasonal positions. The reductions of 20 FTE and \$4.1 million will have some impacts.

**SEN. STAPLETON** asked if the 1% across the board reduction was not applied to them. **Director Hagener** indicated it was because they don't have any general fund after the general fund was removed.

**REP. PATTISON** gave an overview of the budget for the **Department of Environmental Quality** beginning on page C-35 of the Narrative. They were able to eliminate the general fund in several decision packages. The number of FTE funded by the legislature is 15.25 lower than the number proposed by the Executive. They didn't approve decision packages approving new FTE, or replacing FTE eliminated during the last legislative session. Workloads will be distributed among existing staff.

**Director Jan Sensibaugh, Department of Environmental Quality,** thanked the Subcommittee for working to identify programs that were top priority to make sure those programs were adequately funded. Lower priority programs were identified for cuts to help with general fund reductions.

**SEN. BARKUS** asked about the monitoring in Flathead Lake.

**Director Sensibaugh** stated they have \$30,000 in base funding for the Flathead Lake monitoring in their budget. They had requested additional funding that is not in there.

**SEN. BALES** asked about the Environmental Impact Statement (EIS) on coal bed natural gas. He thought they would be looking at additional permitting responsibilities in that area, and he asked if that is addressed in the budget.

**Director Sensibaugh** advised they are doing one general permit for all coal bed methane water that will be impounded. They have already done that general permit part of the EIS. Companies give them a letter of intent to use that general permit. For the discharge into the rivers permits, they got 2 FTE last session, and they believe their staff is adequate to handle that workload.

**SEN. JOHNSON** asked about the Universal System Benefits Charge on page C-44.

**Tom Livers, Department of Environmental Quality,** advised they do contract work through Northwestern Energy. Northwestern Energy administers low income activities and energy efficiency. Frequently they will contract with **DEQ** for energy work in state facilities. The unspent funds that come from Montana Dakota Utilities (MDU) revert to the **Department of Revenue** and a portion of those are allocated to **DEQ** for energy studies for schools in eastern Montana.

**REP. PATTISON** commented on the budget highlights for the Department of Livestock on page C-59 of the Narrative. They removed all general fund support from the Centralized Services division. Most of the funding is from fees. The budget continues the department's participation in the state-federal co-operative agreement for Brucellosis Management. One FTE will be added to the Meat and Poultry Inspection Program.

**Marc Bridges, Director, Department of Livestock,** advised theirs is a lean budget, and offered to answer any questions.

**CHAIRMAN ZOOK** said their department is noted for lean budgets.

**REP. PATTISON** presented the budget highlights for the Department of Natural Resources on page C-71-72. He advised the 1% reduction is particularly unfair to this agency because of the Crow Tribe Settlement. The 1% came to \$344,031 over the biennium. They eliminated positions and some other programs. Funding switches were used to reduce general fund spending. They didn't approve a \$600,000 reduction in coal tax proceeds to the Conservation Districts in **HB 177**. They added funding for the North Central, Dry Prairie, and Dry Red Water regional water systems.

**Bud Clinch, Director, DNRC**, advised they received the targeted reduction from the subcommittee, prioritized their core programs, and came forward with a list of proposed reductions of less essential programing to meet the general fund reduction. Most of those were accepted.

**SEN. JOHNSON** asked if the money they received from the RIT fund is about the same as in past years.

**Director Clinch** stated the amount of RIT funding was different this year from the last biennium because there was a surplus of money in RIT coming into the special session. They did a funding switch at that time to put RIT money back into one of the divisions that previously had not had anything. In the Executive budget there was less RIT than prior to the special session, but similar to what it would have been during the last biennium.

**SEN. JOHNSON** asked if it was about \$3 million, and **Director Clinch** said that is correct.

**SEN. STAPLETON** asked **REP. PATTISON** to explain the increase in spending in the department illustrated on page C-71.

**REP. PATTISON** advised part of it was the increase in the Crow Tribe Settlement from \$500,000 to \$1 million.

**SEN. STAPLETON** advised going from \$32 million to \$39 million is a big increase.

**REP. PATTISON** agreed, but the 1% reduction was particularly tough because of the \$2 million that flowed through that didn't have anything to do with the core function of the department.

**Director Clinch** added that there was one-time only funding for a dam rehabilitation of \$2 million.

**SEN. STAPLETON** asked if there is any way to use Homeland Security money for dams.

**Director Clinch** wasn't aware that money would be available for that. They analyzed all the state projects, prioritized them, and have them on a long term maintenance schedule.

**SEN. BARKUS** advised the Flathead Basin Initiative is in the **DNRC** budget, and the bill had not been passed out of Committee.

**CHAIRMAN ZOOK** advised they needed to do that.

**SEN. STONINGTON** asked about the 1% reduction and asked if the department came to the subcommittee with how they would allocate those reductions.

**Director Clinch** responded the 1% came about after the completion of the Subcommittee. They have not yet come up with a plan to allocate those cuts.

**SEN. STONINGTON** believed the legislature needs to reduce the statutory demands if it is going to be doing across the board cuts. She would welcome any recommendations of program cuts that would require statutory changes that would need to be done prior to the end of this session.

*{Tape: 5; Side: B}*

**Director Clinch** advised it would be easy for them to respond to that.

**SEN. NELSON** asked about the early retirement package and if the department is anticipating some buyouts.

**Director Clinch** advised they have done a preliminary review, and about 70-80 individuals would qualify.

**SEN. BALES** asked about the Rangeland Management Act. He knows they monitor some loans and wondered about the effect on the loans.

**Director Clinch** advised the department is charged with implementing the Rangeland Management Act, and that requires a variety of services to the agricultural community. Their outreach activities affect about 400 individual operations with education efforts towards improving range management practices. The loss of the funding will effect educational outreach efforts and stewardship of range resources. He noted, within the Oil and Gas Division, there is an increase of 3 FTE to respond to what's anticipated in increased activity for coal bed natural gas.

**SEN. MCCARTHY** asked if one FTE was removed from the Water Rights Compact Commission. **REP. PATTISON** advised it was a new proposal and a vacant position.

**REP. PATTISON** reviewed the budget highlights of the **Department of Agriculture** on page C-97 of the Narrative.

**Ray Peck, Director, Department of Agriculture**, thanked the Subcommittee.

**REP. PATTISON** explained the budget highlights for the **Department of Commerce** on page C-107 of the Narrative. They eliminated the funding for the Kumamoto Trade Office. They put \$77,000 back into the Coal Board. The 1% reduction to this department was \$33,000 over the biennium. They eliminated the money for the technical assistance program, for a reduction of \$542,000 general fund.

**Mark Simonich, Director, Department of Commerce**, thanked the staff and subcommittee. His desire was to eliminate something entirely as opposed to cutting programs. There is really no reduction of 23.5 FTE's in the department. They moved the Section 8 Housing Program into an enterprise fund. 19.5 FTE that were in **HB 2** move to this enterprise fund. The actual net reduction in FTE is four.

**SEN. ESP** asked about the CTAP program.

**Director Simonich** explained the Community Technical Assistance Program provides technical assistance for planning and zoning. They will not be providing the same level of service as in the past. They have a video library and those resources are available. County planners and county attorneys called in on water rights issues, etc., and the staff will no longer assist them. They will assist local government through the Treasure State Endowment Program and through the Community Development Block Grant Program. There are also resources within the Business Resource Division for economic development.

**SEN. ESP** asked if the CTAP funds were all general fund. **Director Simonich** advised the program was 100% general fund. This was one of the few areas in the department where the general fund was not used to match federal funds.

**SEN. JOHNSON** asked about the elimination of the Research and Commercialization program. **Director Simonich** advised the program was created during the 2000 special session. It was almost a \$5 million statutory appropriation to the research board for grants. Some of the grant money was eliminated in the special session for

the current fiscal year. During the development of the Governor's budget, the decision was made to eliminate the statutory appropriation for the grant program for the next biennium, and there would have been no money for new grants. They still have outstanding grant contracts they have to administer, so the budget includes one staff position instead of two. The reduction of the grant program was included in **HB 177**, but the bill was tabled in House Appropriations. They anticipate having \$3.65 million in statutory appropriation available for the Board of Research and Commercialization to make grants for research.

**SEN. JOHNSON** asked about results from the grants. **Director Simonich** advised the grants go to units of the University as well as private companies to do research on projects to develop products and processes that can be commercialized. The program has only been operating for three years, and most of the initial grants are in the latter phases of research. There are some in agriculture that are the closest to commercialization.

**SEN. JOHNSON** asked if they gave a grant to the McLaughlin Institute in Great Falls. **Director Simonich** thought they had.

**SEN. JOHNSON** wondered how results would be measured. **Director Simonich** advised reports have to come back to the board and they track the progress of the research. The board is made up of four members appointed by the legislature and three members appointed by the Governor.

**SEN. COONEY** asked about the elimination of funding for the Kumamoto Trade Office. **Director Simonich** advised they identified the Kumamoto office as being the one to close. The Taipei office is more effective. At this point in time, they will not need to close Kumamoto even with giving up the funds. They identified a statutory appropriation for trade and they will use some of those funds being used for part of the Made in Montana program.

**SEN. BARKUS** asked about similar programs in the Governor's office of Economic Development. He asked if the agency would merge with that office down the road and save some money. **Director Simonich** advised he carried the proposal forward to create that office. It may look like there is some duplication, but that office focuses on economic development policy. Their idea is to elevate how coordinate economic development throughout the state without taking it away from the local folks. The Governor's Office of Economic Development doesn't deliver programs, their work is in recruitment of business and investment into the state. Grant programs and technical assistance programs for businesses to help businesses to grow and expand are maintained in the **Department of Commerce**. He thought perhaps they should merge in the future.



The Office of Economic Development is a good effort to see what recruitment efforts does to create business in the state. The response from business has been very good.

**Gary Hamel, Legislative Fiscal Division**, advised there were concerns with language within **FWP**, **DEQ**, and **DNRC**. **CHAIRMAN ZOOK** advised amendments be drawn up and presented later. **Mr. Hamel** said he had amendments prepared, but he wanted to explain the concerns and provide options.

**SEN. SHEA** asked if there would be options in the form of amendments. **Mr. Hamel** advised the amendments would strike language in **DEQ** and **DNRC**. The other options would require the legislature to change some statute related to **HB 2**.

*{Tape: 6; Side: A}*

**SEN. STONINGTON** asked **Director Hagener** about page C-2 and the elimination of \$243,000 from the Parks Division.

**Director Hagener** advised they eliminated the rest of the general fund in the Parks program. **SB 287** and **SB 336** would replace those money sources and help make the Parks program solvent.

**SEN. STONINGTON** asked about the FTE reductions and the seasonal positions.

**Director Hagener** advised they were vacant at the time of the snapshot that was used.

**RECESS**

Recess: 6:41 P.M.

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SEN. TOM ZOOK, Chairman

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PRUDENCE GILDROY, Secretary

TZ/PG